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LETTERS TO THE EDITOR

Laws May Cover the Briefing Book Case

It is no mystery why The Post, in a May 29 editorial, "But Was It A Crime?" reacted in horror against the conclusion of the House human resources subcommittee that the unauthorized taking, receipt and use of the Carter briefing materials might be crimes. The Post evidently fears that such a determination might raise the possibility that its reporters, who often receive leaked government documents, could be charged with criminal offenses.

However, whether The Post likes it or not, laws are on the books that may well cover the briefing book situation. Moreover, the conclusion that taking, receiving and using the Carter briefing

materials to benefit the Reagan-Bush campaign might be crimes does not depend on whether those materials were federal property, a point The Post ignores.

These criminal laws, among others, may be relevant:

1. A federal statute makes criminal the theft or conversion of government records and the receipt of stolen or converted government records. Court decisions indicate that documents prepared by government employees on government time using government supplies are government records for purposes of the statute. The Carter briefing materials fit this description in substantial part.

2. A federal statute proscribes the conversion by a federal employee of private property entrusted to that employee.

3. Both District of Columbia and Virginia laws prohibit larceny of private property and the receipt of property that has been illegally taken.

4. A federal statute declares that it is illegal to make false statements to Congress. Whether there has been unlawful stonewalling during the subcommittee's investigation is now as important as whether taking, receiving and using the briefing materials were crimes in the first place.

The Post also criticizes the recommendation—first offered by the Senate Watergate committee—that theft of federal election campaign records should be a federal crime. This recommendation, however, seeks only to make conduct that already is a state crime a federal crime.

The idea is to give federal authorities additional powers to ensure the integrity of federal elections, not improperly "to inhibit and punish the flow of information," as The Post contends. Wise prosecutorial discretion concerning the enforcement of criminal laws is needed regarding these statutes, as elsewhere.

No one is suggesting wholesale prosecution of reporters who receive and use government documents. But the taking of sensitive documents prepared for the president, and the admitted use of those documents by the opposition campaign to affect a presidential election, are matters of a different character that threaten the integrity of the electoral process and are apt subjects for examination by an impartial independent counsel.

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